

US EPA ARCHIVE DOCUMENT

NOTE TO MARCH 1993 NEW SOURCE REVIEW (NSR) WORKSHOP PARTICIPANTS:

As you are aware, the primary purpose of the upcoming March 1993 NSR Simplification Workshop is to explore in greater detail a number of the specific issues and concerns identified at the first NSR Simplification Workshop last August and to discuss the Environmental Protection Agency's (EPA's) proposed responses to many of the comments. In preparation for the upcoming workshop EPA has developed the enclosed material.

A number of issues were identified at the August 1992 workshop. Of the issues discussed which do not require regulatory action, EPA has moved to address some of the concerns raised. Specifically, additional training is now available to State agencies and the public, EPA policy and guidance on NSR is now more readily available to the public through the Office of Air Quality Planning and Standards Transfer Technology Network, and information access on best available control technology (BACT) has been simplified and broadened. Furthermore, EPA has explored certain areas of concern regarding implementation of the current NSR regulations that could possibly be addressed through interim policy, pending a rulemaking on simplification. These issues include selection of the baseline years for emissions netting calculations, treatment of sources switching to natural gas or installing add-on and other pollution controls, and EPA has also reexamined its policy on the use of prior shutdowns in nonattainment areas. A brief summary of each of the above mentioned items is enclosed for your reference. We plan to discuss these topics on the morning of the first day of the workshop.

On the afternoon of the first day we have planned a discussion of the plantwide applicability limit (PAL) concept for NSR applicability. The basis for the discussion will be the paper on the PAL which is enclosed. This document describes a conceptual approach to the implementation of a PAL system and a discussion of some of the issues revolving around such a system. The concept and document were developed by a staff work group within EPA and is enclosed for your review. Please be advised that the work group product represents an initial staff draft offered for discussion and does not represent any official

position of EPA on the PAL concept.

The second day of the workshop will be devoted to discussing BACT and ways of improving the current process. Although EPA believes the current system for determining BACT leads to appropriate levels of technological controls, EPA also believes that procedures for reaching this goal often produce uncertainty and delay. Therefore, we plan to explore in greater detail the recommendations made at the first workshop and to solicit new ideas for improving the procedures for determining BACT.

Although the core group of workshop participants has remained mostly the same, there will be some new invitees at the second workshop. They will be given an opportunity on the morning of the first day to discuss any new issues they may have identified which were not raised at the initial workshop. A full list of the workshop participants is enclosed.

I am looking forward to your attendance at the upcoming workshop and appreciate your participation. A final workshop agenda is also enclosed. If you have any questions concerning the enclosures or the workshop, please feel free to contact me at (919) 541-5375. Questions on the PAL approach should be directed to William Lamason of my staff at (919) 541-5374.

David Solomon
Chief
New Source Review Section

Enclosures

cc: E. Lillis
L. Wegman
K. Berry

Summary of NSR Simplification Follow Up Issues

September 23, 1997

New Source Review Section

Permits Program Branch

Office of Air Quality Planning and Standards

U.S. Environmental Protection Agency

Issue 1: Availability of information on control technologies for best available control technology (BACT) determinations is limited and difficult to access.

Numerous permit applicants and State and local agencies have raised as an issue the limited availability of information on BACT. Furthermore, the BACT/Lowest Achievable Emission Rate (LAER) Information System (BLIS) was cited as being inaccessible and cumbersome.

In response, the EPA has moved the BLIS to the Office of Air Quality Planning and Standards Technology Transfer Network (TTN). This transfer was completed in October 1992. Consequently, through the TTN, access to the BLISS is now much more straight forward and direct. In addition, the upgraded BLIS has been designed to be user friendly and less cumbersome than its predecessor. State and local agencies, the regulated community, and the public now have more direct and easier access to information on current and past control technology decisions.

The EPA has also an effort underway to ensure that the information on the BLIS is complete and comprehensive. This effort includes collecting data for recently permitted new sources that have not been submitted to the BLIS and the back filling of data that was not originally provided by the air pollution control agency for certain sources entered in BLIS. As a result of the effort, BLIS data will be more reflective of the current state of control technology requirements for new sources. The data in the BLIS system is also under review and revision to provide a commonality of units in listing the performance parameters of listed control technologies. This will assist permit applicants and permitting agencies, in comparing the expected level of control associated with available technologies. As part of this effort, the EPA will also provide a summary report on the technologies listed in the BLIS in an effort to facilitate identification of appropriate control technologies as candidates for BACT determinations. Once improvements to the system are complete, users will be able to self generate similar summaries.

Issue 2. Public access to EPA NSR policy and guidance materials.

The regulated community has raised as a concern the issue that EPA policy and guidance is not readily available. Although their planning decisions may be directly affected by such Federal policy or guidance materials or decisions they are not notified in a timely and direct manner. Furthermore, limited distribution of such information leads to inconsistency and confusion for sources that have to deal with multiple State agencies.

The EPA currently has a data base of all relevant NSR policy and guidance materials issued by the Agency. This data base has historically been available to permit applicants, permitting agencies and the public alike through the NSR Bulletin Board System (BBS). Until recently, the NSR BBS was a stand alone system, to access the NSR BBS special software was required and only one user at a time could access the system. These drawbacks limited the ability of the system to reach a broad base of users. To rectify this, the EPA has now transferred the NSR BBS to the TTN. As a result, all of the above limitations no longer affect the transfer of NSR policy and guidance information to those parties involved in the NSR process.

Issue 3. Most permit disputes are over netting, especially determining old "actual" emissions.

Within the framework of netting emissions, current NSR rules require a source to compare its baseline emissions with its future potential emissions to determine if the proposed change will increase emissions. The EPA's existing regulations define baseline emissions as "the average rate, in tons per year, at which the unit actually emitted the pollutant during a 2-year period which precedes the particular date and which is representative of normal source operation." Although not required by the regulations, EPA has historically used the 2 years immediately preceding the proposed change to establish the baseline. For many sources, the last 2 years are not necessarily representative of normal operations and determining a more appropriate time frame can become a contentious and time consuming issue.

The use of another 2-year period (not just the 2 previous years) is allowed by the NSR regulations and historically EPA has, on a case-by-case basis, allowed the use of another 2 consecutive year period. For the most part, EPA has allowed a source to default to any 2 consecutive years within the last 5 years. This time frame is consistent with the contemporaneous netting period in the NSR regulations. Moreover, within the context of the WEPCO rule, EPA presumes that any 2 consecutive years within the 5 years prior to the proposed change is representative of normal operation.

The EPA is considering expanding the WEPCO presumption for determining representative baseline annual emissions to all source categories. Specifically, sources and permitting agencies would be free to presume that any 2 consecutive years within the 5 years prior to the currently proposed change is representative of normal source operations. The EPA would implement this policy through a memorandum on an interim basis and ultimately include it in a NSR rulemaking package. By doing this, EPA hopes to eliminate the time consuming case-by-case nature of the alternative baseline analysis and provide certainty to both the regulated community and permitting agencies regarding baseline emissions.

Source owners or operators desiring to use other than a 2-year period or a baseline period prior to the last 5 years may seek the Administrator's specific determination that such period is more representative of normal operations. However, sources wishing to use other than a 2-year period or a baseline period prior to the last 5 years must present a clear argument as to why any 2 consecutive years of the last 5 years are not

representative of normal operations.

Issue 4. Provide guidance on the use of prior shutdowns.

The EPA currently disallows the use of "prior" shutdowns or curtailments as an offset in nonattainment areas without an approved attainment demonstration. Permit applicants in nonattainment areas, as well as some states, contend that, to the extent such shutdowns meet all otherwise applicable criteria for being creditable, EPA should allow more flexibility in the use of prior shutdowns as offsets. They argue that the restriction on the use of prior shutdowns unduly restricts new source growth in nonattainment areas without corresponding improvements in air quality.

In response to the issue, and in light of the 1990 Amendments, the EPA has reviewed the shutdown credit policy. Because the 1990 Amendments have temporarily created a situation unanticipated by the regulatory scheme for shutdowns adopted by EPA prior to the 1990 Amendments, EPA believes that it may be appropriate to temporarily lift the restrictions placed on shutdown credits. Consequently, the EPA is considering issuing a policy memorandum to address this issue. However, a policy allowing greater use of prior shutdowns would only extend to those creditable shutdowns and curtailments actually occurring during the time period from the passage of the 1990 Amendments through the period when the attainment demonstration is due (and extending beyond this date to the date of EPA approval -- or disapproval -- of a timely attainment plan). In addition, to be sure that the State remains on track for attainment, the temporary lifting of the shutdown restrictions would be conditioned on the State meeting the applicable part D planning requirements and certain other safeguards to ensure that the use of prior shutdowns would be accounted for in the State's attainment demonstration.

Issue 5: The NSR regulations discourage the use of less polluting fuels (i.e., switches to natural gas).

Current NSR regulations require an existing facility to be either "capable of accommodating" a fuel and permitted for the fuel in order for a fuel switch to be exempt from NSR. These requirements apply even if the switch is to natural gas, a significantly less polluting fuel than either oil or coal. Industry views the ability to switch to natural gas as both a sound economic and environmental move.

The EPA recognizes that in most situations there is a clear air quality benefit realized from a switch to natural gas. This benefit is most pronounced where the operational rate of the unit is not expected to be affected by the switch. Consequently, EPA is considering developing an interim policy which would exclude fuel switching to natural gas at existing units from NSR provided no increase in actual emissions is expected to result. The type of test envisioned would be along the lines of the actual-to-actual test implemented for modifications to utilities in the WEPCO rule and would apply to all source categories. It would include any activity that is necessary to accommodate switching to natural gas. However, as in WEPCO, changes that are intended primarily to restore original capacity or to improve the operational efficiency of the facility would not qualify for exemption.

The EPA is currently working with a major industrial source to evaluate proposed fuel switches to natural gas at its numerous facilities nationwide. The EPA expects that its findings in the this case will establish Federal policy on NSR applicability regarding subsequent natural gas switches at other sources.

Issue 6. The current NSR regulations act to discourage existing sources from undertaking projects directed at pollution control.

A pollution control project undertaken solely for the purpose of reducing a pollutant or pollutant(s) may in some cases trigger NSR review. The NSR regulation's current actual-to-potential test for all projects, including the installation of add-on pollution control technology, results in emissions increases being projected from such projects. These increases are then subject to NSR review although the actual rate of emissions go down in most circumstances.

On July 21, 1992, the EPA promulgated a rule (57 FR 32314, also known as the WEPCO rule) amending the NSR regulations as they pertain to utility pollution control projects. This rule codified the Agency's policy excluding pollution control projects at utilities from NSR so long as certain conditions are met. However, the pollution control project exclusion did not extend to source categories other than electric utility steam generating units. As part of the rulemaking, EPA did, however, receive numerous comments requesting an extension of the pollution control project exclusion described in the WEPCO rule to all source categories.

As an interim policy, EPA is considering recognizing a pollution control project exclusion for all source categories for the use of add-on control technologies. The Agency's experience and knowledge concerning the use of add-on controls indicates that they are the best suited candidates for such an exclusion. The exclusion would follow the qualifying terms as set forth in the WEPCO rule for utilities, and would be also subject to safeguard conditions to ensure that these projects are environmentally beneficial.

Because of the potential positive impact to the environment that all pollution control projects carry, at the upcoming NSR workshop, EPA will ask for input from the group on what other types of projects should be considered pollution control. For example, pollution prevention projects and title VI compliance changes may warrant similar treatment. The EPA would like the group to discuss any limits on this warranted exclusion where the proposed pollution control project will cause a collateral increase in other pollutants, especially in nonattainment areas. How should a pollution control project which causes a significant increase in a nonattainment area pollutant be treated?

Issue 7. Additional NSR training is needed for permit applicants and State and local agency personnel.

Due to very complex nature of the regulations, timely and in-depth training is essential for both the regulated community and regulating community to understand the NSR program. A sound understanding of the program helps industry better prepare for the permitting process. Training at the State and local level ensures more consistent and timely permits are issued.

The Air Pollution Training Branch has developed two 1 week courses covering the technical aspects of permitting, including general permitting procedures, requirements for operating permits, new source review, and prevention of significant deterioration. The first course, APTI #460 - "Introduction to Permitting," introduces new workers to air pollution control as well as permitting and is designed for those who have no knowledge of air pollution control much less permitting. The second course, APTI #461 - "Intermediate Permitting," covers the permit requirements in greater detail and includes exercises in permit condition writing and permit review. This course is designed for individuals with a basic understanding of air pollution control but very little knowledge of permit activities. Descriptions of these courses can be found in the "Catalog of Air Pollution Training Courses" which can be obtained from the Registrar of the Air Pollution Training Institute, Telephone (919) 541-3724.

In addition to the aforementioned courses, the Air Pollution Training Branch has begun offering extensive training for permitting activities through training academies located at the University of Cincinnati in Cincinnati, Ohio and the University of Texas at Arlington in Arlington, Texas. These academies are offering technical courses in air pollution control activities for those individuals who are responsible for writing and reviewing permit applications. For information regarding activities at the University of Cincinnati contact Dr. Tim Keener at (513) 556-2518 and at the University of Texas at Arlington contact Dr. Gerald Nehman at (817) 273-2300.

Beginning next year, EPA plans to initiate a new series of public workshops on NSR. The workshops will cover the basic program requirements and those changes to the program resulting from the 1990 Act Amendments. The EPA is also exploring the idea of telecasting the workshops to provide access to the broadest possible audience.

New Source Review Simplification Workshop
Sheraton Inn University Center
Durham, North Carolina

Agenda

March 17-18, 1993

DAY 1

| | | |
|--------------------|---|--|
| 7:30 - 8:30 a.m | Registration | |
| 8:30 - 8:40 | Welcome | Edward J. Lillis, Chief, Permits Programs Branch, AQMD |
| 8:40 - 9:00 | Workshop Goals | Lydia Wegman, Deputy Director, Office of Air Quality Planning and Standards (OAQPS) Barbara Stinson, Facilitator, Keystone Group |
| 9:00 - 9:30 | Methods for Continued Public Involvement in the Simplification Process | Lydia Wegman |
| 9:30 - 10:00 | New Issues | Barbara Stinson |
| 10:00 - 12:00 p.m. | Progress Summary | Edward Lillis |
| | - BACT/LAER Clearinghouse | Bob Blaszcak, Co-Chair of Control Technology Center, OAQPS |
| | - Accessing NSR Information | David Solomon, Chief New Source Review Section |
| | - Baseline for Netting | " " |
| | - Use of Prior Shutdowns | " " |
| | - Switching to Natural Gas | " " |
| | - Add-on Pollution Control | " " |
| | - Pollution Control Project Issues | Bill Tyndall, EPA Office of General Counsel |

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DAY 1 - Continued

- PSD Monitoring David Lutz, Monitoring
and Reports Branch, OAQPS
- NSR Training Leo Stander, Assistant
to the Permits Programs
Branch Chief

12:00 - 1:00 **Lunch Break**

1:00 - 3:00 NSR Applicability: David Bray
A Plantwide Approach EPA Region X

3:00 - 3:15 **Break**

3:15 - 5:00 NSR Applicability
Discussion (continued) " "

5:00 p.m. Adjourn

DAY 2

7:30 - 8:30 am Registration

8:30 - 10:30 a.m. Best Available Control Rob Brenner, Acting Deputy
Technology: Improving Assistant Administrator,
the Process Office of Air and
Radiation

10:30 - 10:45 **Break**

10:45 - 12:00 p.m. BACT Discussion (continued) " "

12:00 - 1:00 p.m. **Lunch Break**

1:00 - 2:30 Summarize Options for
Improving BACT " "

2:30 - 3:00 Workshop Summary Lydia Wegman
Ed Lillis
Barbara Stinson

3:00 p.m.

Adjourn

NSR SIMPLIFICATION WORKSHOP PARTICIPANT LIST
March 17-18, 1993

| <u>Participants</u> | <u>Representing</u> |
|-----------------------------------|--|
| Michael Barr | National Association of Manufacturers |
| Vivian McIntire | Eastman Kodak |
| Leslie Ritts | Counsel for NEDA |
| Ernie Rosenberg | Occidental Petroleum |
| Ellen Siegler | American Petroleum Institute |
| Ted Cromwell | Chemical Manufacturers Association |
| Larry Slimak David Aldorfer | Motor Vehicle Manufacturers Assoc. |
| Gregory Dana Dick Penna | Assoc. of International Auto Manufact. |
| Bill Pedersen | Perkins Coie |
| Bill Lewis | Morgan, Lewis & Bockius |
| Andrea Bear Field Henry Nickel | Utility Air Regulatory Group |
| Rob Kaufmann | American Forest and Paper Institute |
| Jim Sell Craig Potter | National Paint and Coatings Assoc. |
| Chuck Knauss | Swidler & Berlin |
| Dale Brooks | Edison Electric Institute |
| Bill Burkhart | Proctor & Gamble |
| Dave McAvoy | Eli Lilly |
| Barbara Bankoff | Siemens |
| Mark Carney | Independent Power Producers |
| David Hawkins | NRDC |

| | |
|---------------------|--|
| Chris Shaver | Environmental Defense Fund |
| Praveen Amar | NESCAUM |
| <u>Participants</u> | <u>Representing</u> |
| John Paul | NSR Committee Chairperson for ALAPCO |
| William Becker | STAPPA/ALAPCO |
| John Daniel | NSR Committee Chairperson for STAPPA |
| Molly Ross | National Park Service |
| Rich Fisher | Forest Service |
| David Carr | Southern Environmental Law Center |
| Pat Raher | Hogan & Hartson |
| David Jordan | IN Air Pollution Control Agency |
| Wendy Sims | OR Dept. of Environmental Quality |
| Dennis Armbruster | MI Dept. of Natural Resources |
| Tom Micia | NJ Dept. of Environmental Protection |
| Donald Theiler | WI Dept. of Natural Resources |
| Rob Brenner | Acting Deputy Assistant Administrator, OAR, EPA |
| Lydia Wegman | Deputy Director, OAQPS, EPA |
| Ed Lillis | Chief, Permits Programs Branch, EPA |
| David Solomon | Chief, New Source Review Section, EPA |
| Greg Foote | Office of General Counsel, EPA |
| Bill Tyndall | Office of General Counsel, EPA |
| Chris Knopes | Office of Policy, Planning and Evaluation, EPA |
| Karen Levy | Office of Policy Analysis and Review, EPA |
| Marcia Spink | Region III, EPA |

| | |
|-------------------|----------------|
| Bruce Miller | Region IV, EPA |
| Ron VanMersbergen | Region V, EPA |
| David Bray | Region X, EPA |

